



1995 SENATE BILL 536

February 9, 1996 – Introduced by Senator WEEDEN, cosponsored by Representative BRANCEL. Referred to Committee on State Government Operations and Corrections.

1 **AN ACT to renumber** 227.43 (2) and 227.43 (2m); **to renumber and amend**
2 227.43 (4) and 227.43 (5); **to amend** 227.43 (title); and **to create** 20.505 (4) (kp),
3 46.03 (42), 49.32 (12), 227.43 (1) (bu) and (by), 227.43 (2) (c) and (d), 227.43 (3)
4 (c) and (d) and 227.43 (4) (c) and (d) of the statutes; **relating to:** granting
5 authority to the division of hearings and appeals in the department of
6 administration to hold administrative hearings for the department of health
7 and family services and the department of industry, labor and job development,
8 granting rule-making authority and making appropriations.

Analysis by the Legislative Reference Bureau

Under current law, the division of hearings and appeals (DHA) in the department of administration (DOA) has authority to hold administrative hearings for certain administrative hearings granted by the department of transportation and the department of natural resources. For these hearings, DHA has the authority to assign hearing examiners, supervise the hearing process and promulgate rules. This bill expands these provisions to grant DHA the authority to also hold administrative hearings for the department of health and family services (DHFS) and to hold certain administrative hearings for the department of industry, labor and job development (DILJD). Under the bill, DHA may conduct a hearing granted by DILJD, if the hearing relates to the economic support and work programs administered by DILJD.

The bill grants the administrator of DHA the authority to set the fees, in accordance with a federally approved allocation methodology, to be charged for the services provided to DHFS and DILJD. DHFS and DILJD are required to pay to DHA all costs of the services of a hearing examiner, including support services, for

these administrative hearings. The bill transfers from DHFS and DILJD to DOA all assets and liabilities, pending matters, rules and orders, contracts, equipment and records that relate to these administrative hearings. The bill also transfers certain DHFS and DILJD employes to DOA; these employes are granted the same rights and status at DOA that they possessed at DHFS and DILJD. The provisions of the bill and the transfers take place on July 1, 1996, or on the day after publication.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

	1995-96	1996-97
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4 **20.505 Administration, department of**

5 (4) ATTACHED DIVISIONS, BOARDS, COUNCILS AND
6 COMMISSIONS

7 (kp) Hearings and appeals fees	PR-S	A	-0-	1,449,200
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8 **SECTION 2.** 20.505 (4) (kp) of the statutes is created to read:

9 20.505 (4) (kp) *Hearings and appeals fees.* The amounts in the schedule for
10 hearings and appeals services to the departments of health and family services and
11 industry, labor and job development. All moneys received from the fees charged
12 under s. 227.43 (3) (c) and (d) shall be credited to this appropriation account.

13 **SECTION 3.** 46.03 (42) of the statutes is created to read:

14 46.03 (42) ADMINISTRATIVE HEARINGS AND APPEALS. Any hearing under s. 227.42
15 granted by the department may be conducted before the division of hearings and
16 appeals in the department of administration.

17 **SECTION 4.** 49.32 (12) of the statutes is created to read:

1 49.32 (12) ADMINISTRATIVE HEARINGS AND APPEALS. Any hearing under s. 227.42
2 granted by the department under this subchapter may be conducted before the
3 division of hearings and appeals in the department of administration.

4 **SECTION 5.** 227.43 (title) of the statutes is amended to read:

5 **227.43** (title) ~~Natural resources and transportation~~ **Division of**
6 **hearings and appeals.**

7 **SECTION 6.** 227.43 (1) (bu) and (by) of the statutes are created to read:

8 227.43 (1) (bu) Assign a hearing examiner to preside over any hearing of a
9 contested case that is required to be conducted by the department of health and
10 family services and that is not conducted by the secretary of health and family
11 services.

12 (bu) Assign a hearing examiner to preside over any hearing of a contested case
13 that is required to be conducted by the department of industry, labor and job
14 development under subch. III of ch. 49 and that is not conducted by the secretary of
15 industry, labor and job development.

16 **SECTION 7.** 227.43 (2) of the statutes is renumbered 227.43 (2) (a).

17 **SECTION 8.** 227.43 (2) (c) and (d) of the statutes are created to read:

18 227.43 (2) (c) The department of health and family services shall notify the
19 division of hearings and appeals of every pending hearing to which the administrator
20 of the division is required to assign a hearing examiner under sub. (1) (bu) after the
21 department of health and family services is notified that a hearing on the matter is
22 required.

23 (d) The department of industry, labor and job development shall notify the
24 division of hearings and appeals of every pending hearing to which the administrator
25 of the division is required to assign a hearing examiner under sub. (1) (by) after the

1 department of industry, labor and job development is notified that a hearing on the
2 matter is required.

3 **SECTION 9.** 227.43 (2m) of the statutes is renumbered 227.43 (2) (b).

4 **SECTION 10.** 227.43 (3) (c) and (d) of the statutes are created to read:

5 227.43 (3) (c) The administrator of the division of hearings and appeals may
6 set the fees to be charged for any services rendered to the department of health and
7 family services by a hearing examiner under this section in a manner consistent with
8 a federally approved allocation methodology. The fees shall cover the total cost of the
9 services.

10 (d) The administrator of the division of hearings and appeals may set the fees
11 to be charged for any services rendered to the department of industry, labor and job
12 development by a hearing examiner under this section in a manner consistent with
13 a federally approved allocation methodology. The fees shall cover the total cost of the
14 services.

15 **SECTION 11.** 227.43 (4) of the statutes is renumbered 227.43 (4) (a) and
16 amended to read:

17 227.43 (4) (a) The department of natural resources shall pay all costs of the
18 services of a hearing examiner assigned to the department under sub. (1) (b),
19 according to the ~~fee schedule~~ fees set under sub. (3) (a).

20 **SECTION 12.** 227.43 (4) (c) and (d) of the statutes are created to read:

21 227.43 (4) (c) The department of health and family services shall pay all costs
22 of the services of a hearing examiner, including support services, assigned under sub.
23 (1) (bu), according to the fees set under sub. (3) (c).

1 (d) The department of industry, labor and job development shall pay all costs
2 of the services of a hearing examiner, including support services, assigned under sub.
3 (1) (by), according to the fees set under sub. (3) (d).

4 **SECTION 13.** 227.43 (5) of the statutes is renumbered 227.43 (4) (b) and
5 amended to read:

6 227.43 (4) (b) The department of transportation shall pay all costs of the
7 services of a hearing examiner assigned under sub. (1) (bg) or assigned to the
8 department under sub. (1) (br), according to the ~~fee schedule~~ fees set under sub. (3)
9 (b).

10 **SECTION 14. Nonstatutory provisions.**

11 (1) TRANSFER OF ADMINISTRATIVE HEARINGS AND APPEALS AUTHORITY FROM
12 DEPARTMENT OF HEALTH AND FAMILY SERVICES TO DEPARTMENT OF ADMINISTRATION.

13 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
14 liabilities of the department of health and family services associated with
15 administrative hearings shall become the assets and liabilities of the department of
16 administration.

17 (b) *Transfer of positions and employes, change in funding source.*

18 1. The authorized FTE positions for the department of health and family
19 services, funded from the appropriation under section 20.435 (8) (a) of the statutes
20 and primarily related to hearings and appeals, are decreased by 5.4 GPR positions
21 on the effective date of this subdivision, to reflect the transfer of hearings and
22 appeals to the department of administration.

23 2. The authorized FTE positions for the department of health and family
24 services, funded from the appropriation under section 20.435 (8) (n) of the statutes
25 and primarily related to hearings and appeals, are decreased by 5.4 FED positions

1 on the effective date of this subdivision, to reflect the transfer of hearings and
2 appeals to the department of administration.

3 3. The authorized FTE positions for the department of administration, funded
4 from the appropriation under section 20.505 (4) (kp) of the statutes, are increased by
5 10.8 PR positions on the effective date of this subdivision, to reflect the transfer of
6 hearings and appeals from the department of health and family services.

7 4. All incumbent employes holding positions specified in subdivisions 1. and
8 2., as determined by the secretary of administration, are transferred on the effective
9 date of this subdivision to the department of administration.

10 (c) *Employe status.* Employes transferred under paragraph (b) 4. to the
11 department of administration shall have the same rights and status under
12 subchapter V of chapter 111 and chapter 230 of the statutes in the department of
13 administration that they enjoyed in the department of health and family services.
14 Notwithstanding section 230.28 (4) of the statutes, no employe with permanent
15 status in class who is transferred under paragraph (b) is required to serve a
16 probationary period.

17 (d) *Equipment and records.* On the effective date of this paragraph, all
18 furniture, equipment, supplies and records of the department of health and family
19 services associated with administrative hearings shall be transferred to the
20 department of administration.

21 (e) *Contracts.* All contracts entered into by the department of health and family
22 services associated with administrative hearings in effect on the effective date of this
23 paragraph remain in effect and are transferred to the department of administration
24 or the effective date of this paragraph. The department of administration shall carry
25 out any such contractual obligations.

1 (f) *Rules and orders.* All rules promulgated and orders issued by the
2 department of health and family services associated with administrative hearings
3 in effect on the effective date of this paragraph remain in effect until their specified
4 expiration date or until modified or rescinded by the department of administration.

5 (g) *Pending matters.* Any matter pending with the department of health and
6 family services on the effective date of this paragraph associated with administrative
7 hearings is transferred to the department of administration, and all materials
8 submitted to or actions taken before the effective date of this paragraph with respect
9 to the pending matter are considered as having been submitted to or taken by the
10 department of administration.

11 (2) TRANSFER OF HEARINGS AND APPEALS AUTHORITY FROM DEPARTMENT OF INDUSTRY,
12 LABOR AND JOB DEVELOPMENT TO DEPARTMENT OF ADMINISTRATION.

13 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
14 liabilities of the department of industry, labor and job development associated with
15 administrative hearings under subchapter III of chapter 49 of the statutes shall
16 become the assets and liabilities of the department of administration.

17 (b) *Transfer of positions and employes, change in funding source.*

18 1. The authorized FTE positions for the department of industry, labor and job
19 development, funded from the appropriation under section 20.445 (1) (kc) of the
20 statutes and primarily related to hearings and appeals for economic support
21 programs, are decreased by 10.0 PR positions on the effective date of this subdivision,
22 to reflect the transfer of hearings and appeals for economic support programs to the
23 department of administration.

24 2. The authorized FTE positions for the department of administration, funded
25 from the appropriation under section 20.505 (4) (kp) of the statutes, are increased by

1 10.0 PR positions on the effective date of this subdivision, to reflect the transfer of
2 hearings and appeals for economic support programs from the department of
3 industry, labor and job development.

4 3. All incumbent employes holding positions specified in subdivision 1., as
5 determined by the secretary of administration, are transferred on the effective date
6 of this subdivision to the department of administration.

7 (c) *Employe status.* Employes transferred under paragraph (b) 3. to the
8 department of administration shall have the same rights and status under
9 subchapter V of chapter 111 and chapter 230 of the statutes in the department of
10 administration that they enjoyed in the department of industry, labor and job
11 development. Notwithstanding section 230.28 (4) of the statutes, no employe with
12 permanent status in class who is transferred under paragraph (b) is required to serve
13 a probationary period.

14 (d) *Equipment and records.* On the effective date of this paragraph, all
15 furniture, equipment, supplies and records of the department of industry, labor and
16 job development associated with administrative hearings under subchapter III of
17 chapter 49 of the statutes shall be transferred to the department of administration.

18 (e) *Contracts.* All contracts entered into by the department of industry, labor
19 and job development associated with administrative hearings under subchapter III
20 of chapter 49 of the statutes in effect on the effective date of this paragraph remain
21 in effect and are transferred to the department of administration on the effective date
22 of this paragraph. The department of administration shall carry out any such
23 contractual obligations.

24 (f) *Rules and orders.* All rules promulgated and orders issued by the
25 department of industry, labor and job development associated with administrative

1 hearings under subchapter III of chapter 49 of the statutes in effect on the effective
2 date of this paragraph remain in effect until their specified expiration date or until
3 modified or rescinded by the department of administration.

4 (g) *Pending matters.* Any matter pending with the department of industry,
5 labor and job development on the effective date of this paragraph associated with
6 administrative hearings under subchapter III of chapter 49 of the statutes is
7 transferred to the department of administration, and all materials submitted to or
8 actions taken before the effective date of this paragraph with respect to the pending
9 matter are considered as having been submitted to or taken by the department of
10 administration.

11 **SECTION 15. Appropriation changes; health and family services.**

12 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
13 to the department of health and family services under section 20.435 (8) (a) of the
14 statutes, as affected by the acts of 1995, the dollar amount is decreased by \$439,600
15 for fiscal year 1996-97 to reflect a decrease in the administrative hearings workload
16 and the transfer of responsibility for administrative hearings to the department of
17 administration.

18 (2) In the schedule under section 20.005 (3) of the statutes for the appropriation
19 to the department of health and family services under section 20.435 (1) (bm) of the
20 statutes, as affected by the acts of 1995, the dollar amount is increased by \$234,300
21 for fiscal year 1996-97 to finance the cost of administrative hearing services provided
22 to the department by the department of administration.

23 (3) In the schedule under section 20.005 (3) of the statutes for the appropriation
24 to the department of health and family services under section 20.435 (3) (a) of the
25 statutes, as affected by the acts of 1995, the dollar amount is increased by \$35,300

1 for fiscal year 1996-97 to finance the cost of administrative hearing services provided
2 to the department by the department of administration.

3 **SECTION 16. Appropriation changes; industry, labor and job**
4 **development.**

5 (1) ADMINISTRATIVE PERSONNEL. In the schedule under section 20.005 (3) of the
6 statutes for the appropriation to the department of industry, labor and job
7 development under section 20.445 (1) (kc) of the statutes, as affected by the acts of
8 1995, the dollar amount is decreased by \$522,300 for fiscal year 1996-97 to reflect
9 the transfer of responsibility for administrative hearings to the department of
10 administration.

11 (2) ADMINISTRATIVE HEARINGS. In the schedule under section 20.005 (3) of the
12 statutes for the appropriation to the department of industry, labor and job
13 development under section 20.445 (3) (a) of the statutes, as affected by the acts of
14 1995, the dollar amount is increased by \$170,000 for fiscal year 1996-97 to finance
15 the cost of administrative hearing services provided to the department by the
16 department of administration.

17 **SECTION 17. Effective date.**

18 (1) TRANSFER OF HEARINGS AND APPEALS. This act takes effect on July 1, 1996,
19 or on the day after publication, whichever is later.

20 (END)